



# ANNUAL COMPLIANCE UNDER CA 2013 - Critical aspects

---

- CS Deepti Joshi



## Number of Amendments - CA 2013

MMJC

Year	Rules and Notifications	Circulars	Misc	Total
2014-15	35	42	09	<b>86</b>
2015-16	32	09	02	<b>43</b>
2016-17	38	08	13	<b>59</b>
2017-18	44	17	13	<b>74</b>
2018-19	60	12	10	<b>82</b>
2019-20	64	20	29	<b>113</b>
2020-21	39	28	10	<b>77</b>
2021-22	17	12	01	<b>30</b>
<b>Total</b>				564
<b>No. of Sections covered under Adjudication Mechanism – 63 + Sec. Covered u/s 450</b>				

360° analysis is a challenge!!!

Cos are being watched !

# Analysis of Adjudication Orders [ROC]

[Dec.2020 to Nov.2021]

MMJC

Name of ROC	Order passed u/s 12	Order passed u/s 92, 137	Order passed u/s 203	Miscellaneous	Total No. of Adjudication orders
Pune	0	0	7	0	7
Delhi	6	13	3	4 - sec. 173	26
Ahmedabad	12	0	0	0	12
Bangalore	50	4 – sec. 137, 4 – sec. 92	3	8 - Sec. 117, 3 - sec. 118, 1 - sec. 165, 1 - sec. 173	74
Chandigarh	14	0	0	0	14
Cuttack	18	3	1	0	22
Kanpur	17	0	0	0	17
Kolkata	4	2	0	0	6
Jaipur	3	0	0	0	3
<b>TOTAL</b>					<b>181</b>

# COVERAGE



01

**On-going compliance**  
Irrespective of size of  
Company

02

**Periodic compliance**  
By Company &  
By Directors

03

**Threshold based compliance**  
Paid up capital, turnover,  
borrowing, net worth,  
profits

04

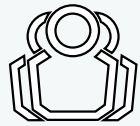
**E-forms filing**  
Critical points



# 01

## On-going Compliance





# On-going compliance



*w.r.t Raising of funds*



*w.r.t Deployment of funds*

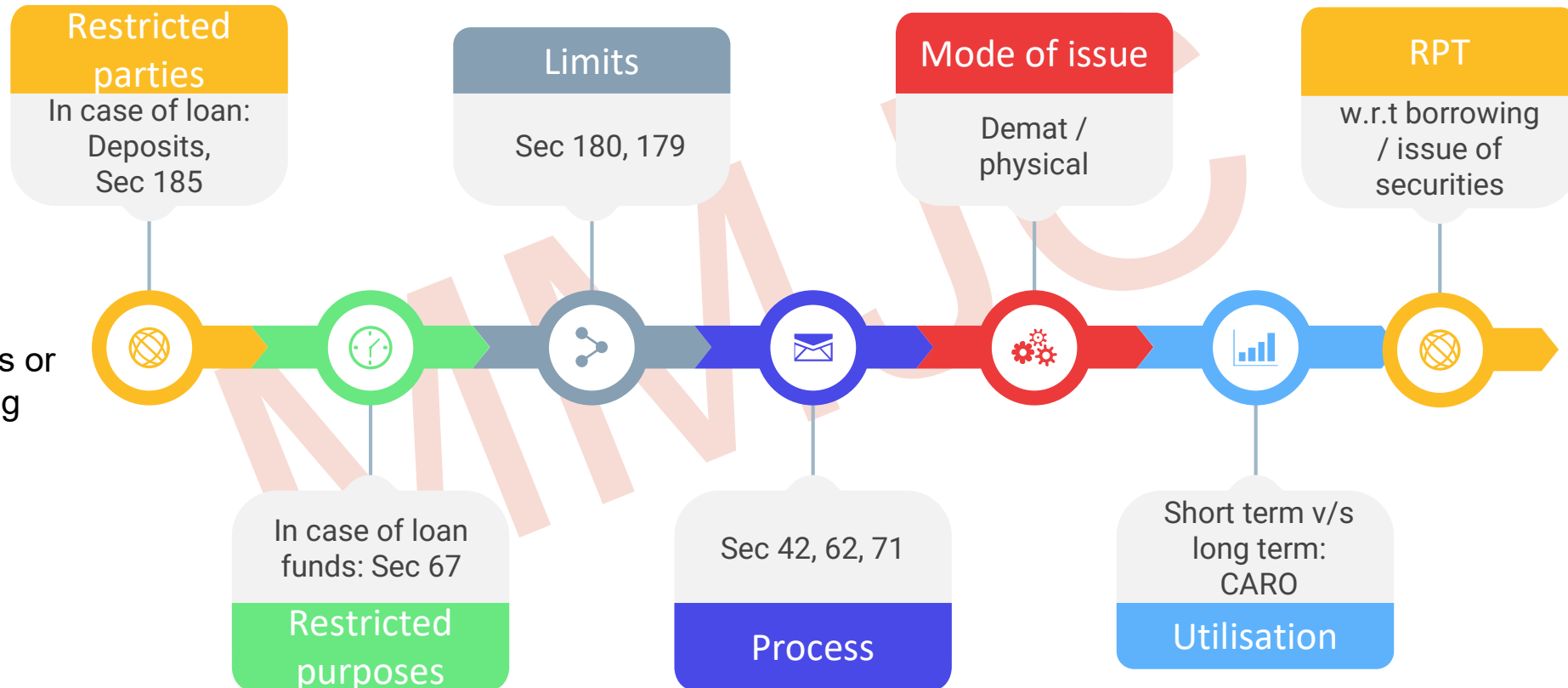


*w.r.t Related party transactions*

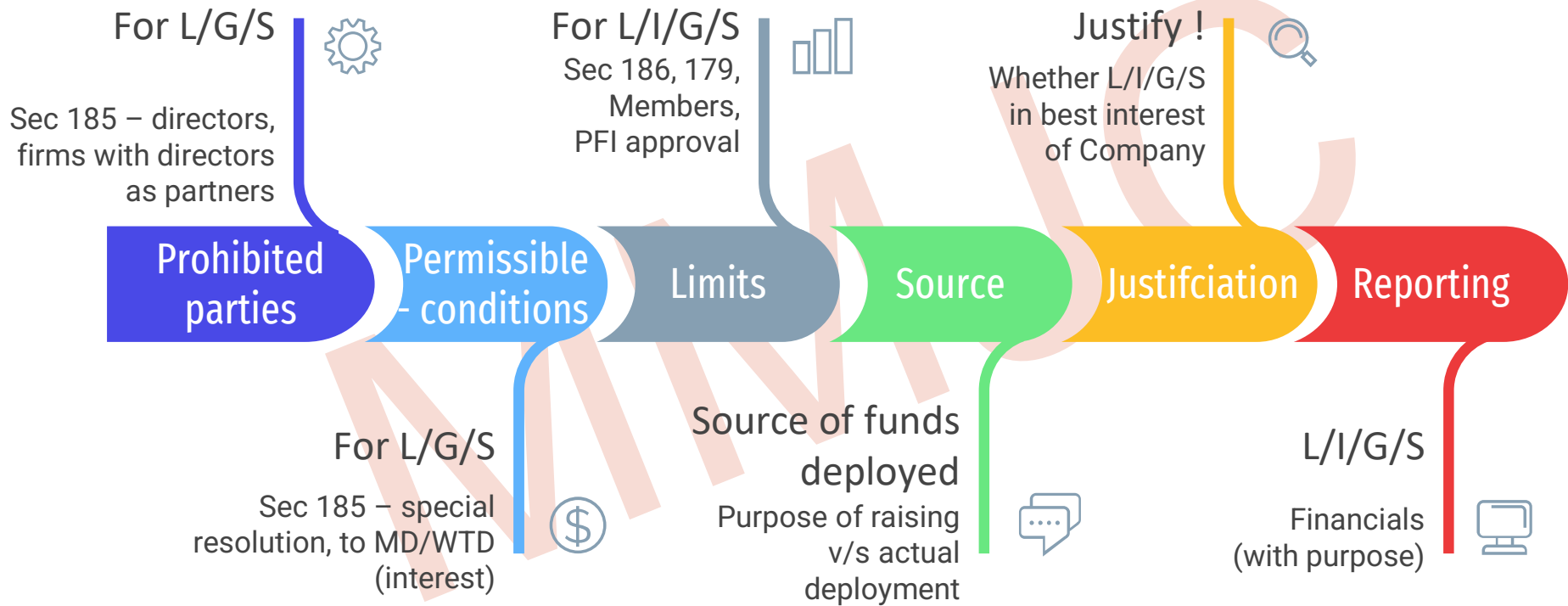
# Compliance w.r.t Raising of funds

MMJC

Issue of securities or borrowing

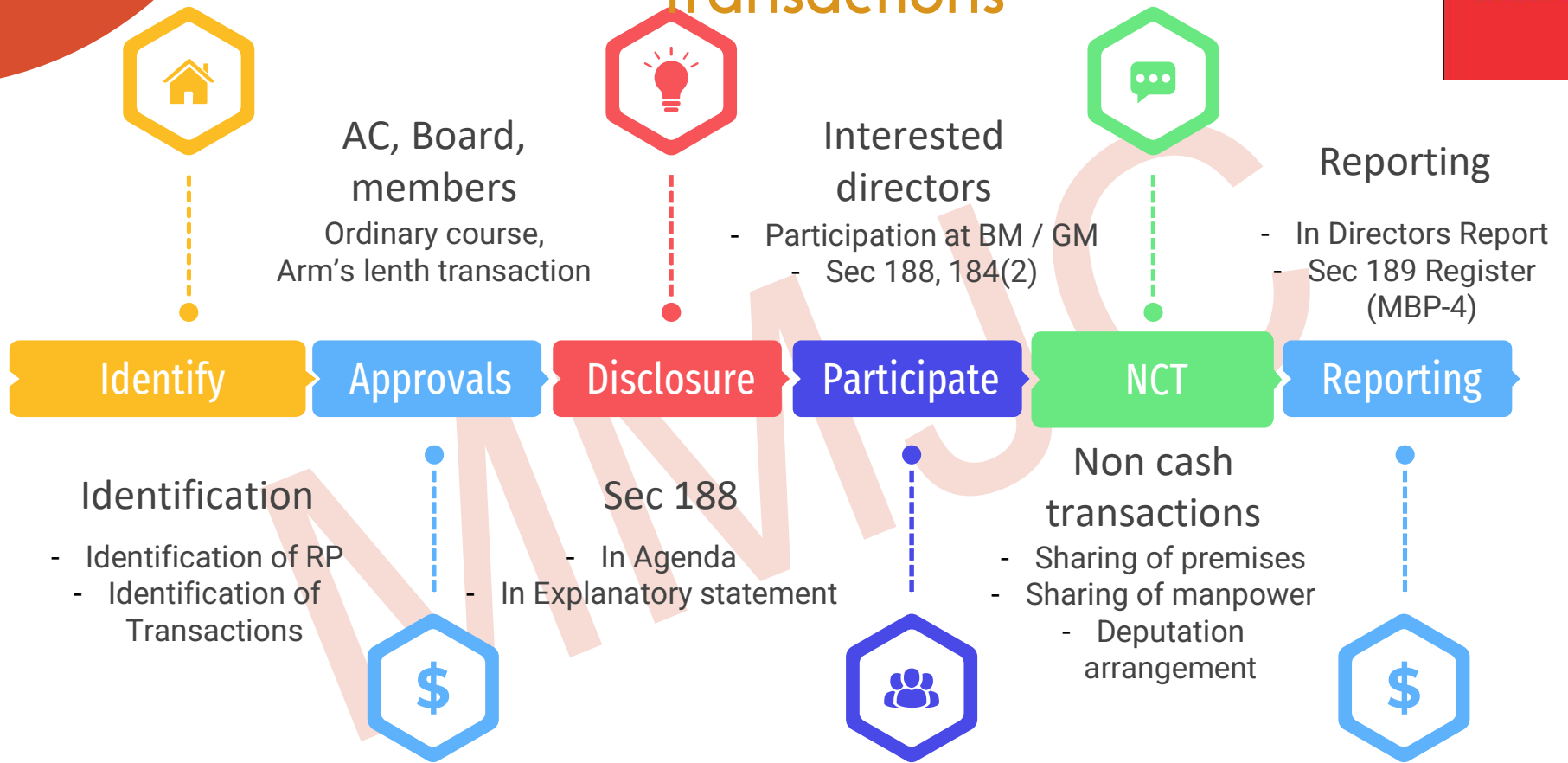


# Compliance w.r.t deployment of funds





# Compliance w.r.t Related party transactions





# 02

Periodic Compliance  
- by Companies [irrespective of size]





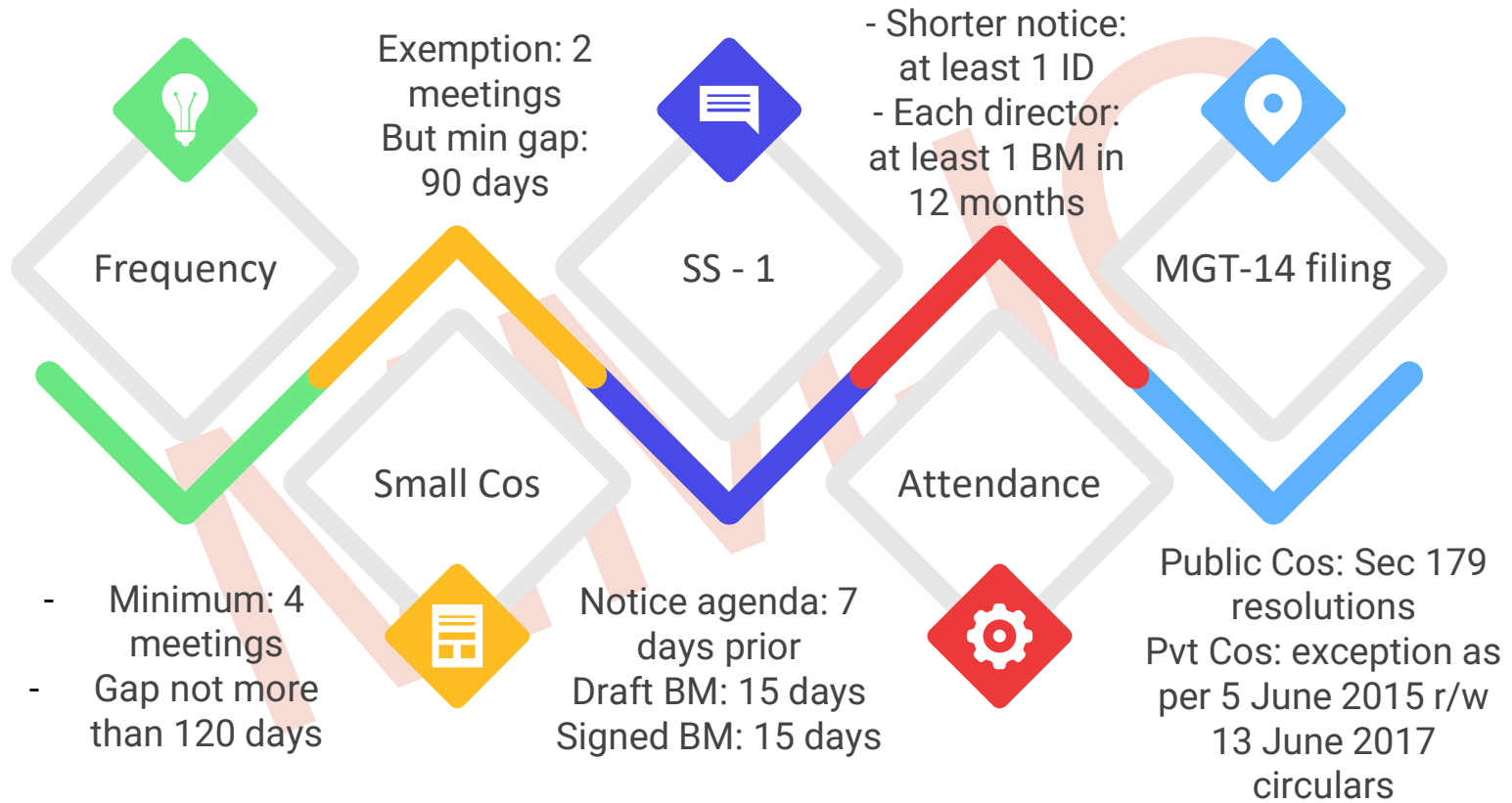
Ensuring Board,  
Committee &  
General meetings

Appt / Re-appt/  
Remuneration of  
Directors & KMP

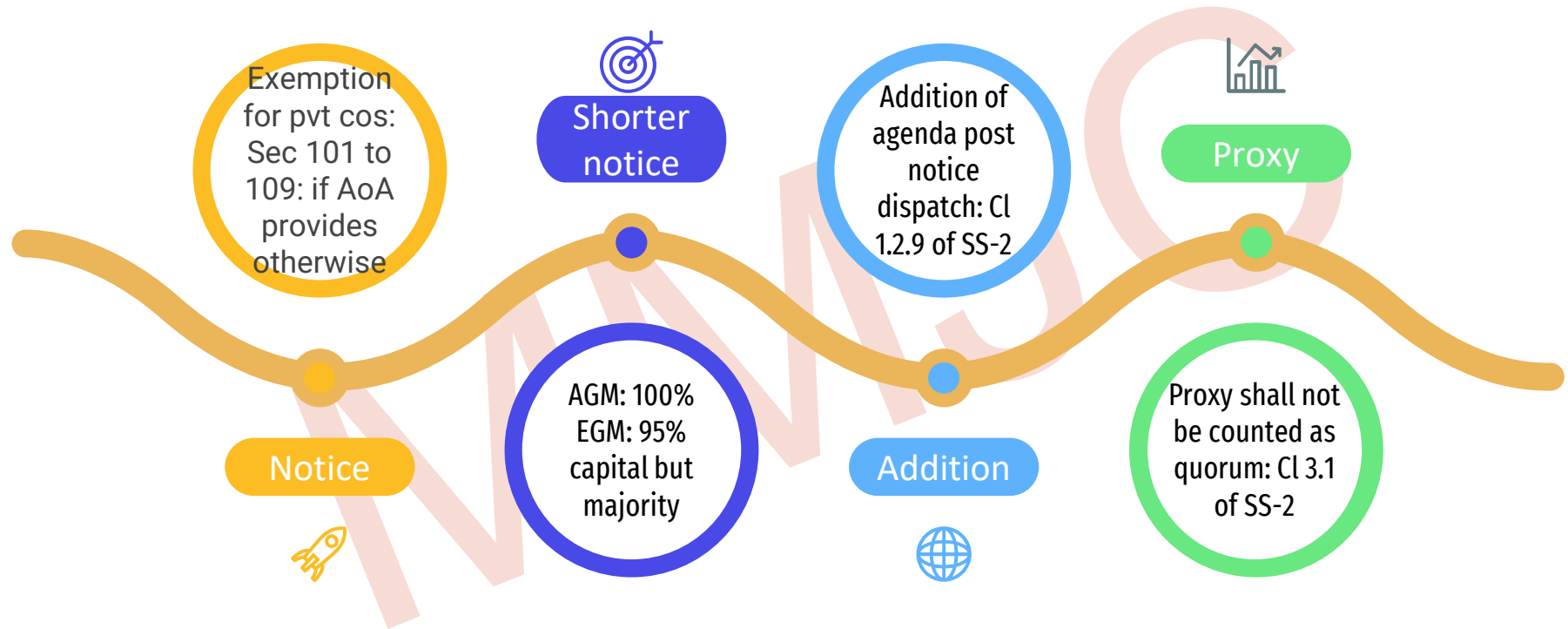
Filing relevant  
e-forms

Ensuring various  
Audits

# Board Meeting Compliance

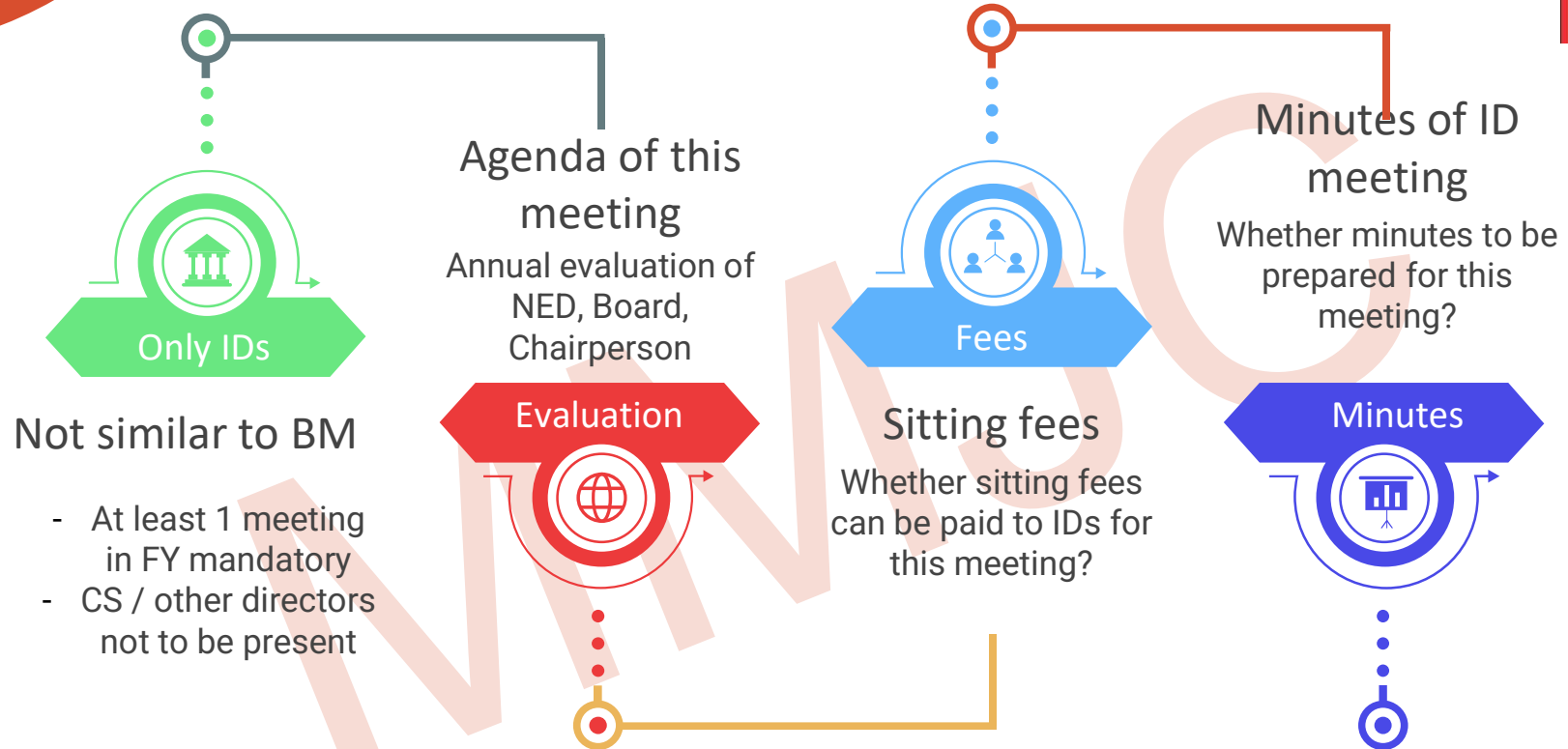


# General Meeting Compliance



# Independent Directors' meeting

MMJC



# Directors - Appt & Remuneration Compliance

MMJC

## MD/WTD

### Tenure

Sec 196: 5 yrs tenure  
MGT-14 filing for MD re-appt

- Cannot be re-appointed more than 1 year before end of tenure
- Public Company: approval of members mandatory

## Public Co

### MD/WTD

Sch V: Part I mandatory  
Else CG approval

## IDs

### Term

Max 2 tems of 5 yrs  
Less than 5 yrs also: 1 term

Second term appt: before end of 1<sup>st</sup> term: 149(10)  
Disclosure in D/R

## Remuneration

### Limits Sec 197

Cap: 11%  
MD/WTD: 5% / 10%  
NED: 1% / 3%

Sch V extended for NEDs also w.e.f. 18 March 2021

## Sch V

### Disclosures

In Explanatory statement  
In Directors Report (CG)

Points to be considered by NRC while approving

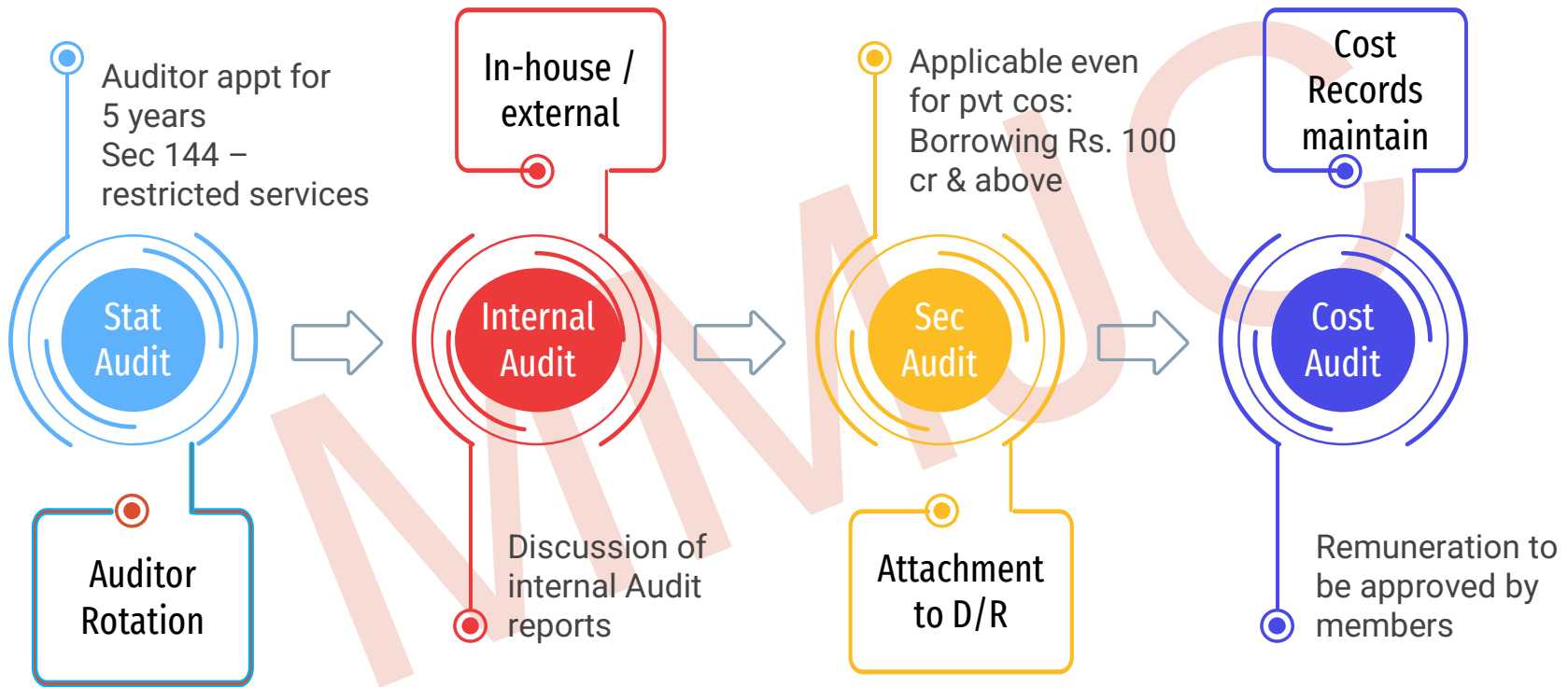
## Waiver

### Waiver of recovery

Within 2 yrs of excess payment

Disclsoures under Sch V: although not clearly mentioned

# Ensuring various Audits





# E-forms to be filed with ROC

MMJC

MSME

Twice a year:  
April & Oct

PAS-6

Twice a year  
(public cos):  
April-May &  
Oct-Nov

DPT-3

Once a year:  
April to June

AOC-4  
MGT-7

Once a year:  
30 / 60 days of  
AGM  
AOC-4 CFS for  
consolidation

MGT-  
15

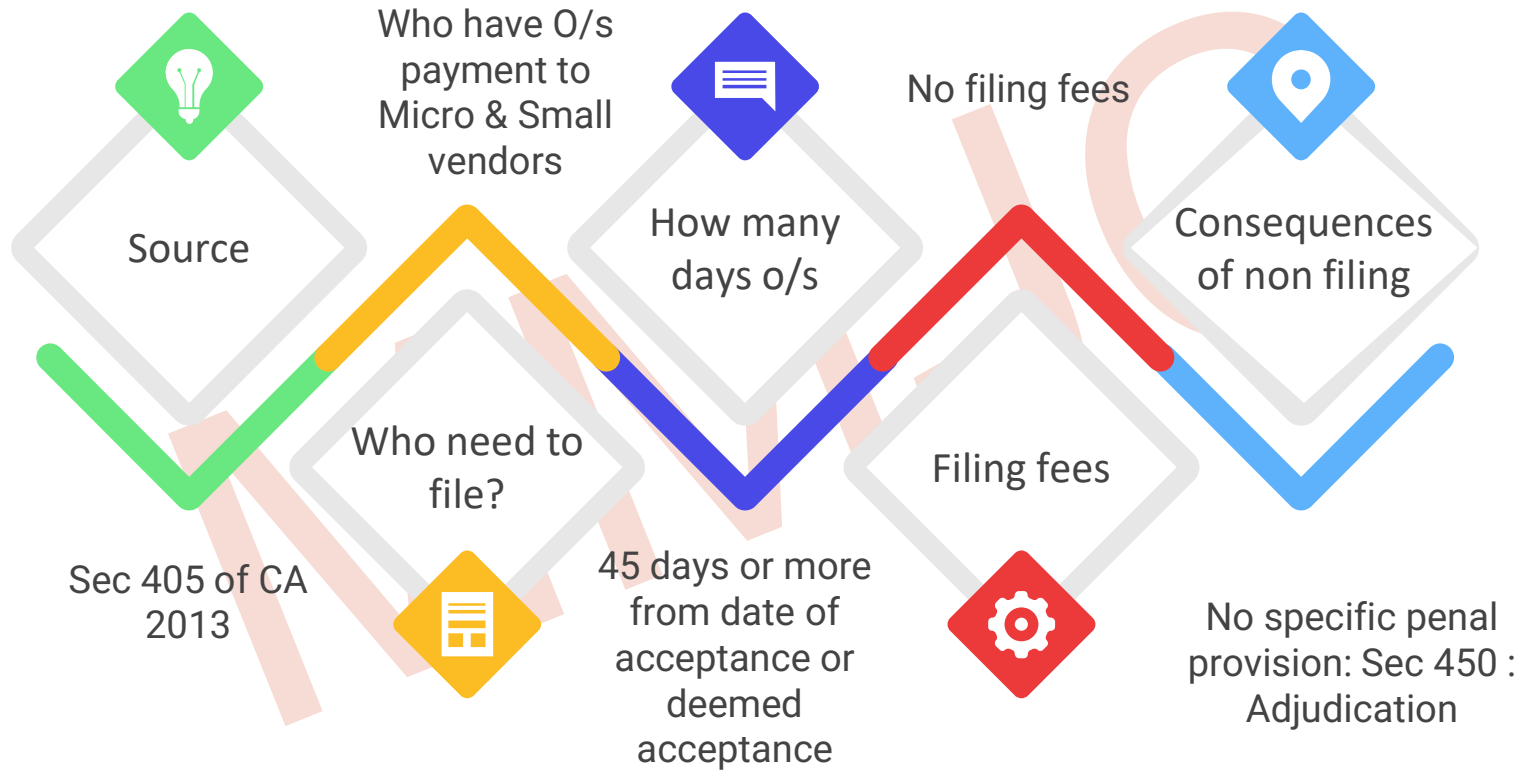
Listed public cos:  
30 days of AGM

CRA-2  
CRA-4

By 30<sup>th</sup> Sept

Assuming FY – April to March

# Form MSME - I



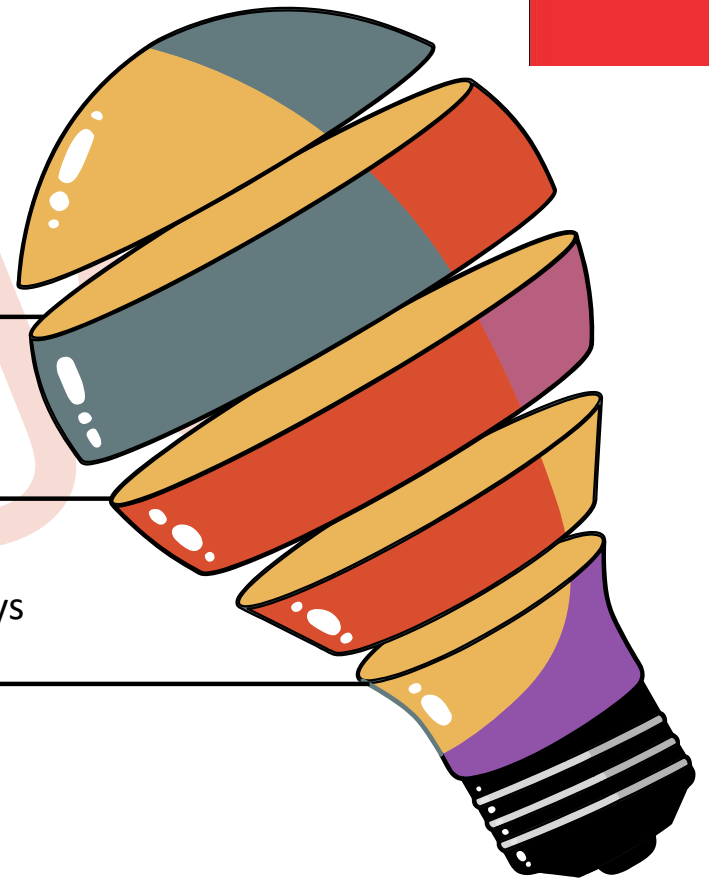
# Critical Questions - Form MSME-1

MMJC

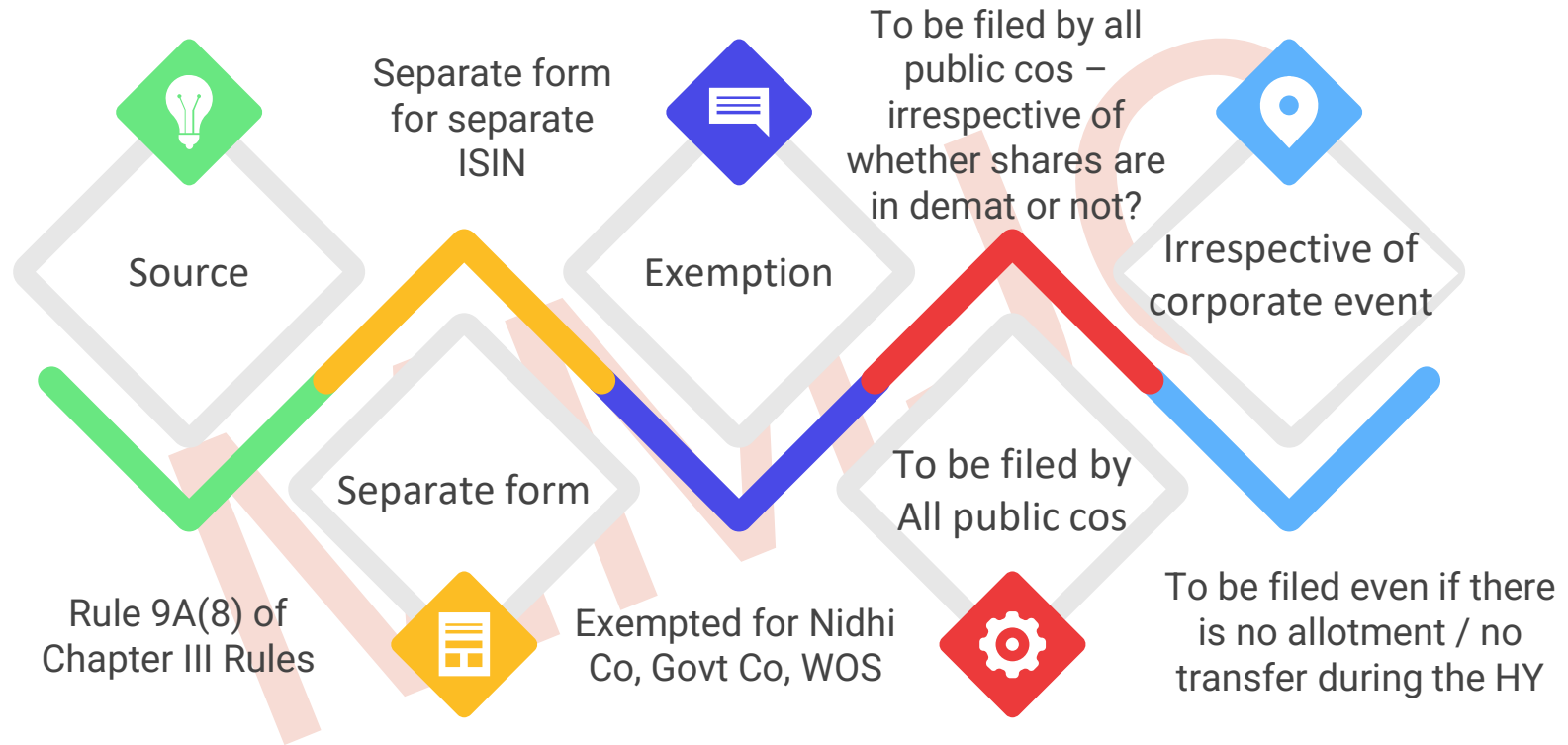
Whether to include only registered Vendors OR even unregistered Vendors ? *[only registered]*

What if Co has payment cycle of 60 days or 90 days? *[violation of MSME Act, but need to report]*

What if Co has no o/s as at end of HY but had paid beyond 45 days during HY? *[In such case, it is not possible to file]*



# Form PAS-6



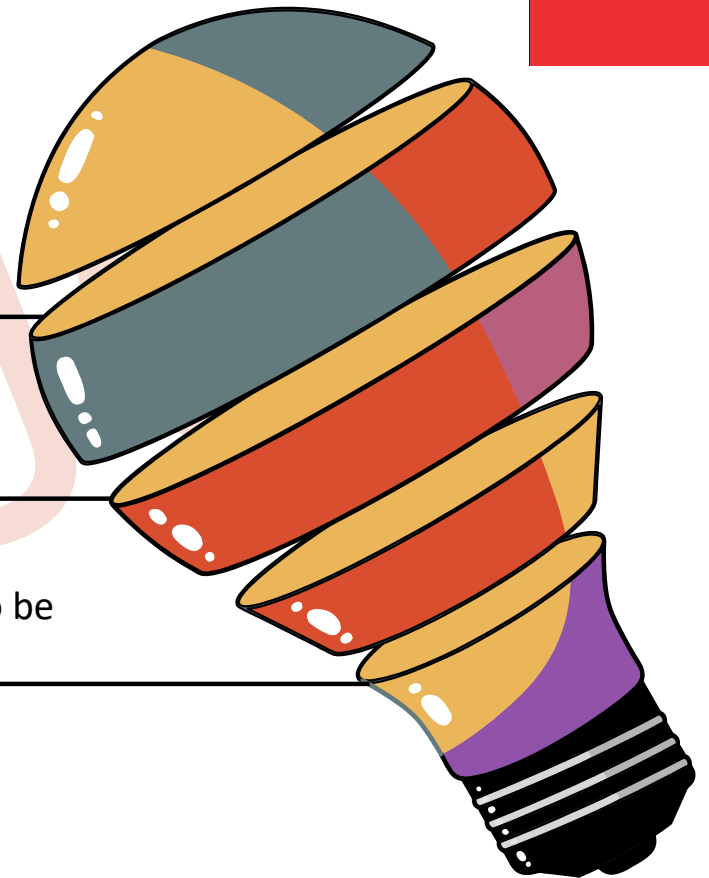
# Critical Questions - Form PAS-6

MMJC

Can this form be filed by Cos which have not yet taken ISIN?  
*[First to take ISIN & then file form]*

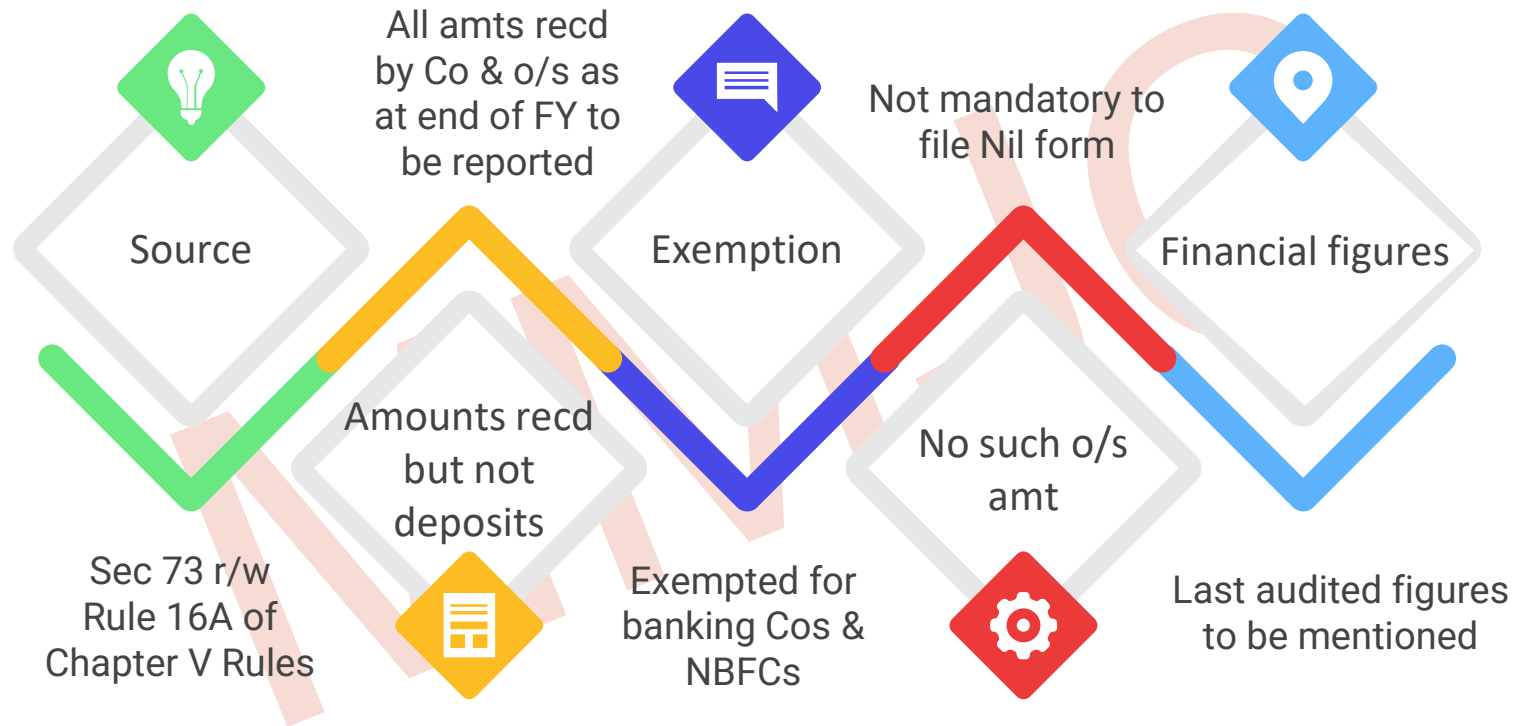
Whether equity unlisted but debt listed public cos need to file  
this Form? *[It will be unlisted public co]*

If there is any non-compliance of Rule 9A, whether this form is to be  
qualified? *[Yes, last point asks for comments]*



# Form DPT-3

MMJC



# Critical Questions - Form DPT-3

MMJC

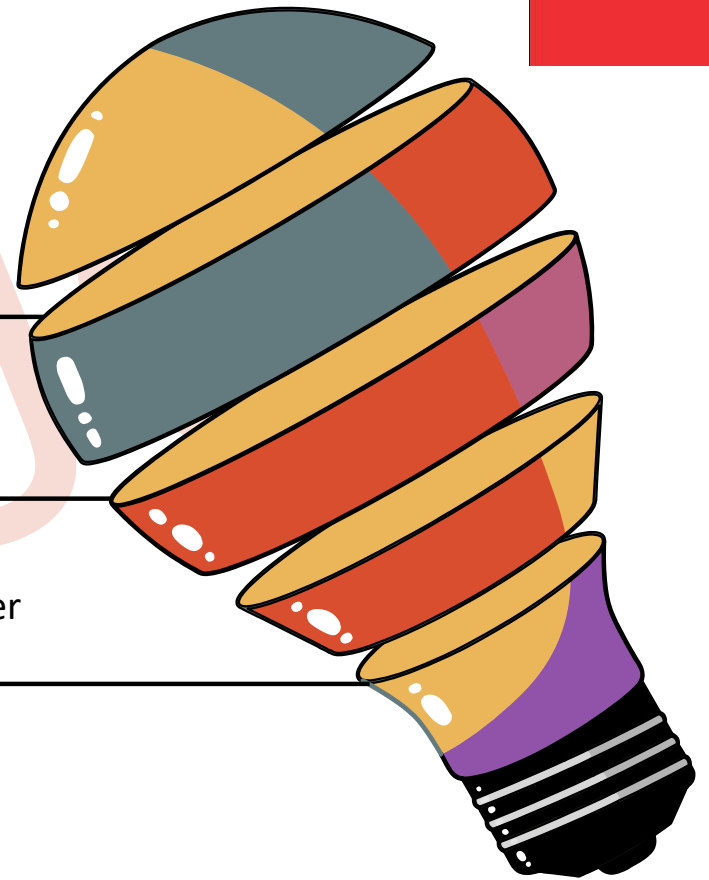
Whether it is mandatory to attach Auditors Report? *[Not needed]*



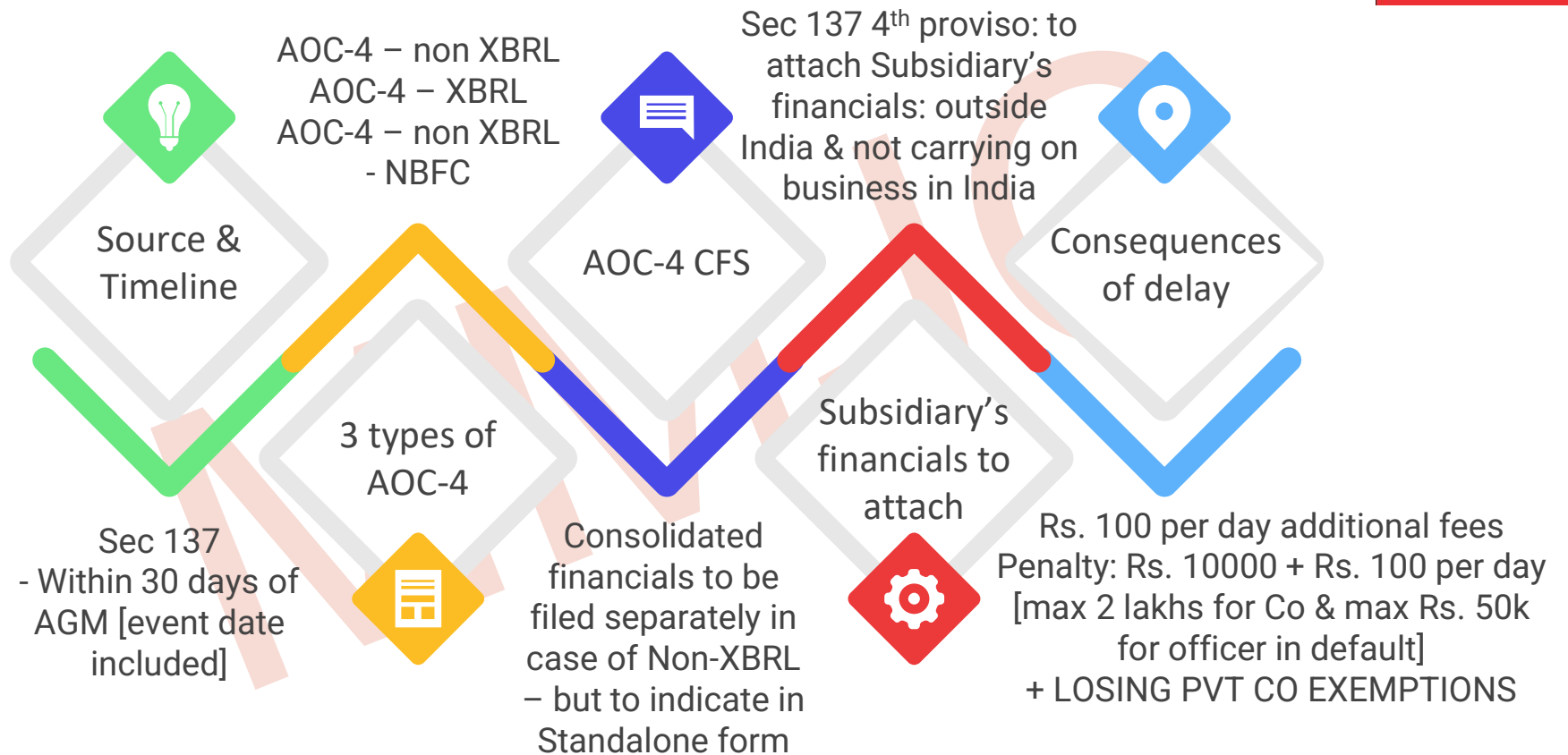
If amount o/s as at end of FY was received in prior years, is it to be reported? *[Yes]*



If an amount is covered under 1 exemption but not covered under other exemption, how to mention ? *[Under relevant place]*



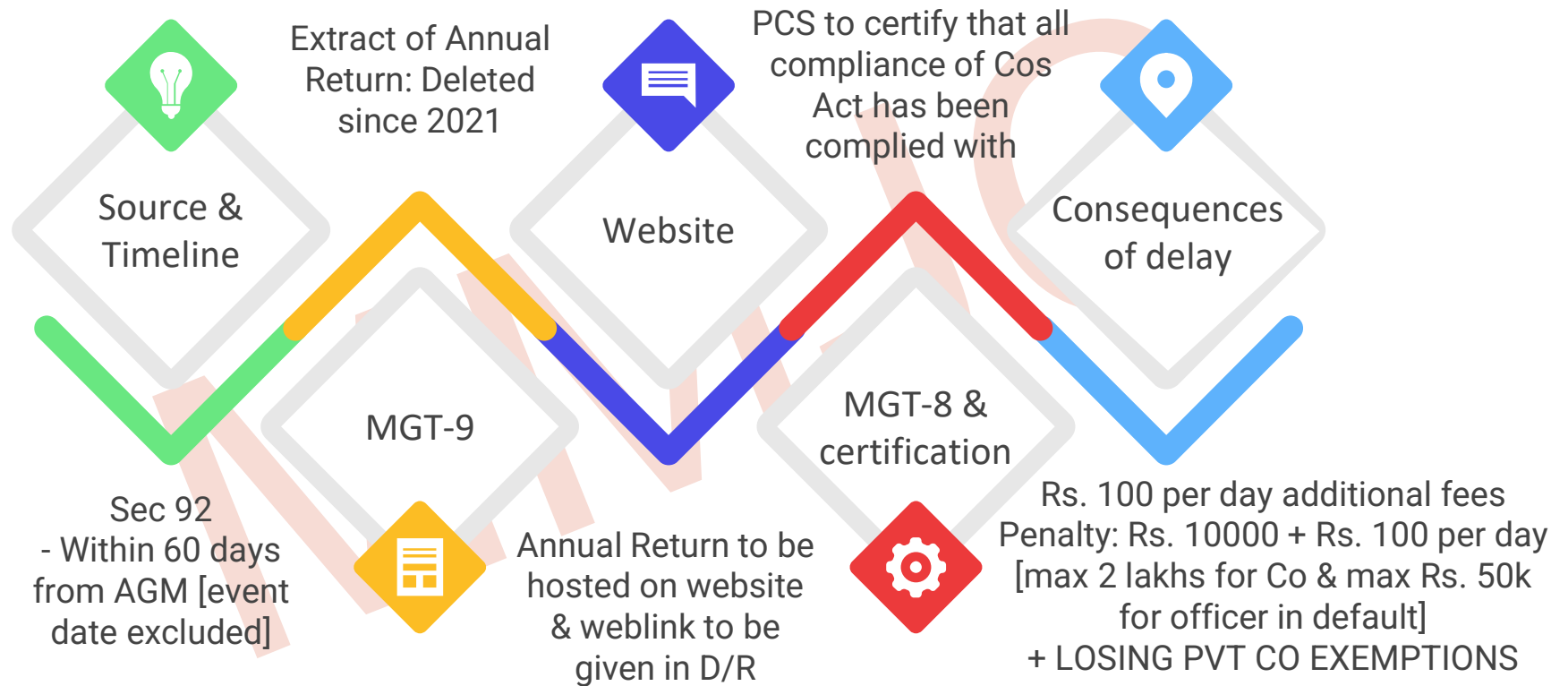
# Form AOC-4





# Form MGT-7

MMJC



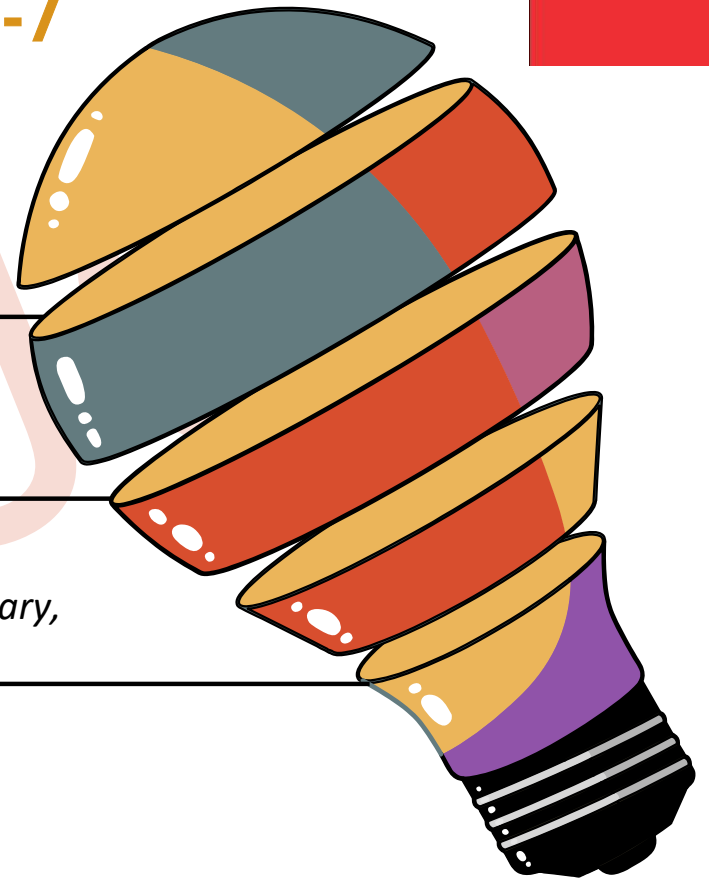
# Critical Questions - Form AOC-4 & MGT-7

MMJC

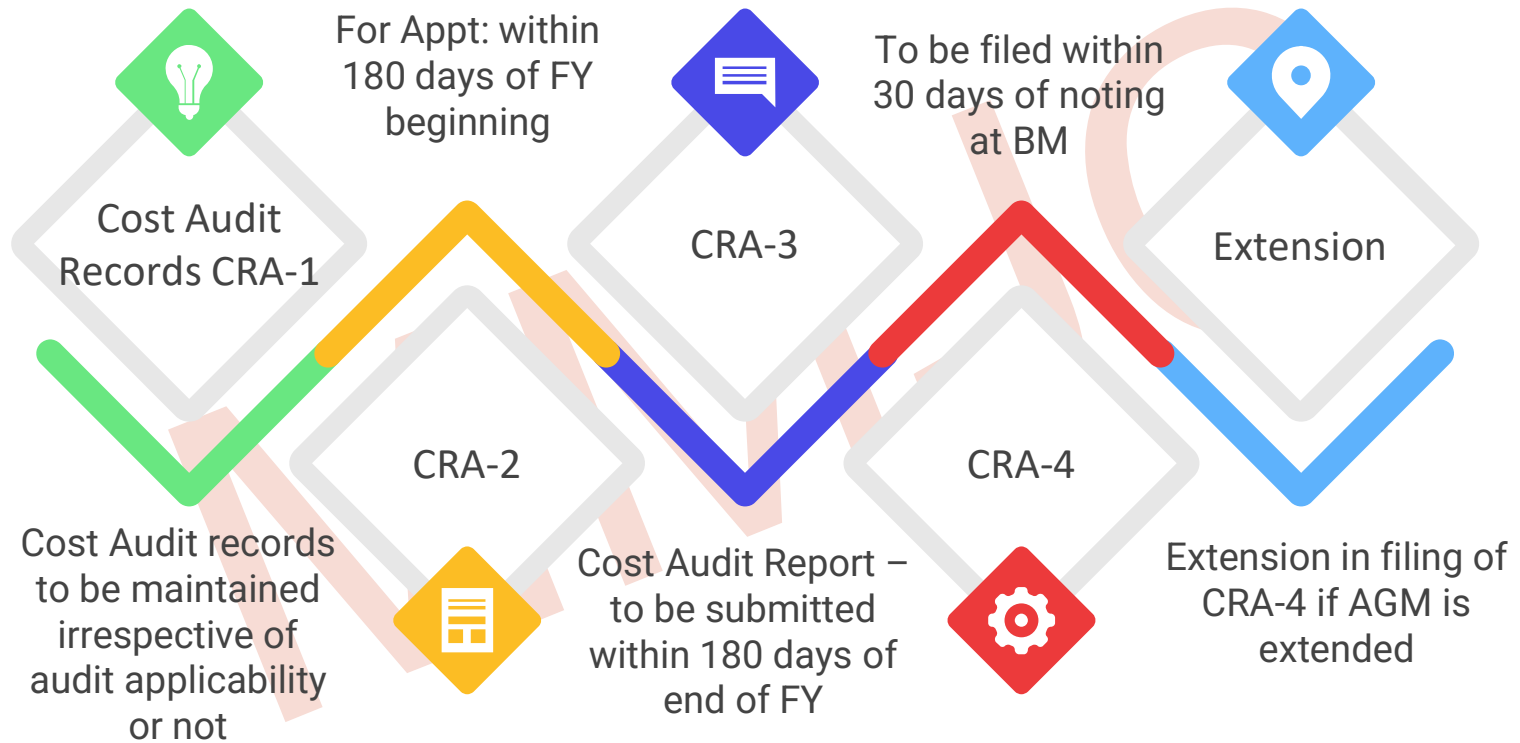
Can we file these forms if accounts are not adopted at AGM / AGM is not held? *[yes provisional need to be filed]*

Can we host Annual Return on website after it is filed? *[No, its weblink to be given in D/R: so draft to be on website]*

Whether consolidation is needed in case of LLP ? *[If LLP is subsidiary, then consolidation needed]*



# Form CRA-2, CRA-4





# 03

## Threshold based Compliance - by Companies



# Triggers based on Paid-up capital

MMJC

Based On <u>Paid up capital</u>	Public Companies & their Subsidiaries	Private Companies
Paid up capital => Rs. 10 crores	Whole Time Company Secretary ( <b>immediate year</b> )	
Paid up capital => Rs. 10 crores	MGT-8 Certification From PCS ( <b>immediate year</b> )	
	Key Managerial Personnel [Sec 203] – MD /CEO/ Manager/ WTD & CFO ( <b>immediate</b> )	-
	Minimum 2 Independent Directors [Sec 149]	-
	Audit Committee & Nomination & Remuneration constitution [Sec 177, 178]	-
	Auditor Rotation [Sec 139(2)]	-
Paid up capital => Rs. 50 crores	Internal Audit [Sec 138]	Auditor Rotation[Sec139]
	Secretarial Audit [Sec 204] ( <b>immediate</b> )	-
Paid up capital => Rs. 100 crores	Minimum 1 Woman Director [Sec 149]	-

# Triggers based on Turnover

MMJC

Based On <u>Turnover</u>	Public Companies & their Subsidiaries	Private Companies
Turnover => Rs. 50 cr	MGT-8 Certification From PCS ( <b>immediate year</b> )	
	Cost Audit may get triggered for Regulated Sectors [if individual turnover from Regulated activities is more than Rs. 25 crore aggregate]	
Turnover => Rs. 100 cr	Cost Audit may get triggered for Unregulated Sectors [if individual turnover from Regulated activities is more than Rs. 35 crore aggregate]	
	Minimum 2 Independent Directors [Sec 149]	-
	Audit Committee & Nomination & Remuneration constitution [Sec 177, 178]	-
Turnover => Rs. 200 cr	Internal Audit [Sec 138]	
Turnover => Rs. 250 cr	Secretarial Audit [Sec 204] ( <b>immediate</b> )	-
Turnover => Rs. 300 cr	Minimum 1 Woman Director [Sec 149]	-
Turnover => Rs. 1000 crores	Corporate Social Responsibility (CSR) [Sec 135]	

# Triggers based on Borrowings

MMJC

Based On <u>Borrowings</u>	Public Companies & their Subsidiaries	Private Cos
Accepts <b>Public Deposits</b>	Adoption of Vigil Mechanism [Sec 177] ( <b>immediate</b> )	-
<b>Outstanding Deposits =&gt;</b> Rs. 25 cr	Internal Audit [Sec 138] ( <b>any point of time in previous year – then in next year</b> )	-
Any Loan from anyone / Debentures / <b>Deposits =&gt;</b> Rs. 50 cr	Minimum 2 Independent Directors [Sec 149]	-
	Audit Committee & Nomination & Remuneration constitution [Sec 177, 178]	-
Loan from Banks/ PFI / <b>Public Deposits =&gt;</b> Rs. 50 cr	Auditor Rotation [Sec 139(2)]	
	Adoption of Vigil Mechanism [Sec 177] ( <b>immediate</b> )	
Loan from Banks/ PFI => Rs. 100 cr	Internal Audit [Sec 138] ( <b>any point of time in previous year – then in next year</b> )	
	Secretarial Audit [Sec 204] ( <b>O/s as on last date of FY – then from that year: immediate</b> )	

# Triggers based on Net worth & Profits

MMJC

Based On <u>Net worth</u>	All Companies (Private or Public companies)
Net Worth => Rs. 250 cr	IND-AS Applicability [if other than Insurance Cos, banks]
Net Worth => Rs. 500 cr	Corporate Social Responsibility (CSR) [Sec 135]
Based On <u>Net Profits</u>	All Companies (Private or Public companies)
Net Profit as per Sec 198 => Rs. 5 cr	Corporate Social Responsibility (CSR) [Sec 135]





# CSR, IEPF, SBO compliance

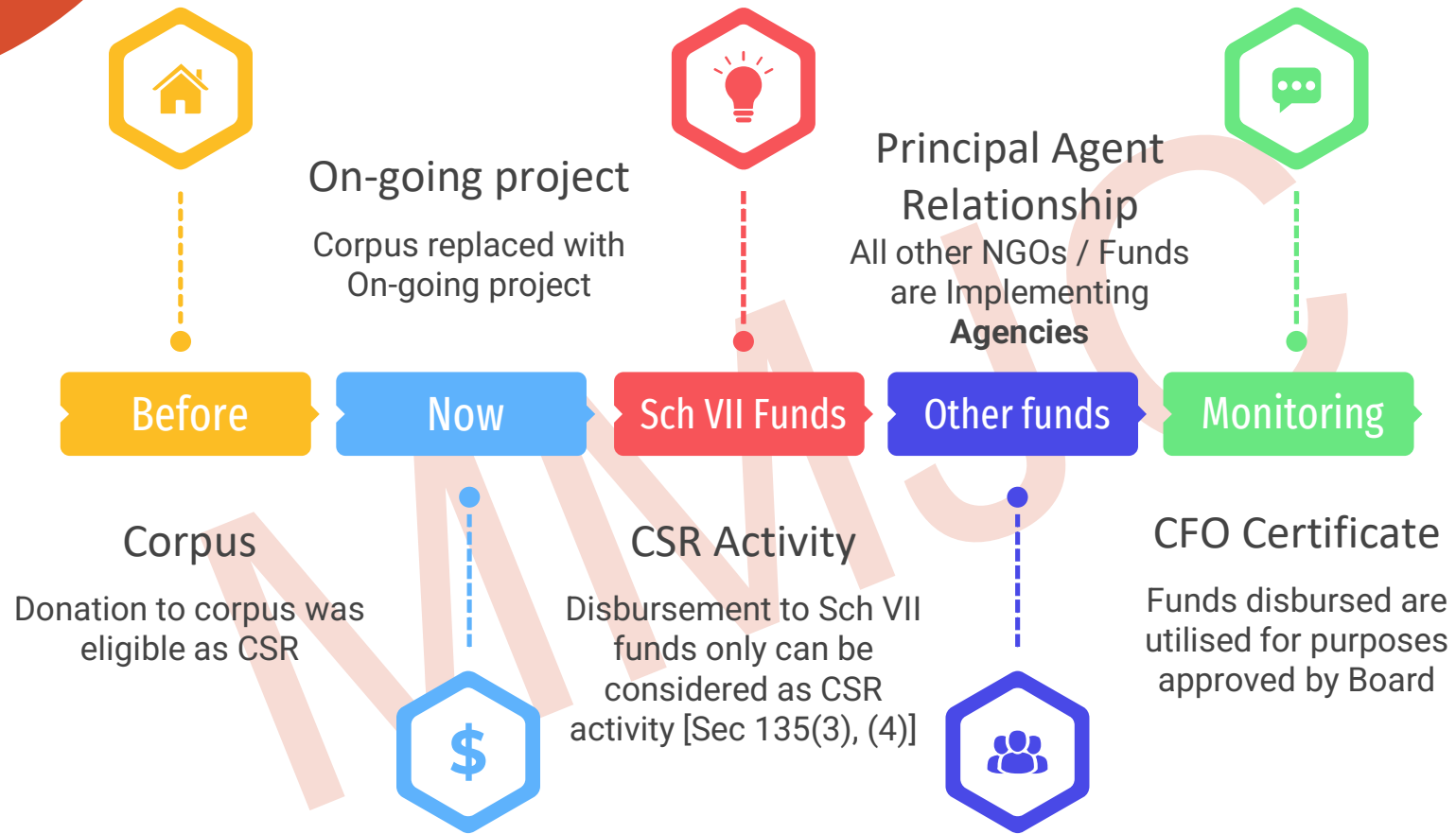


# Common Errors in CSR

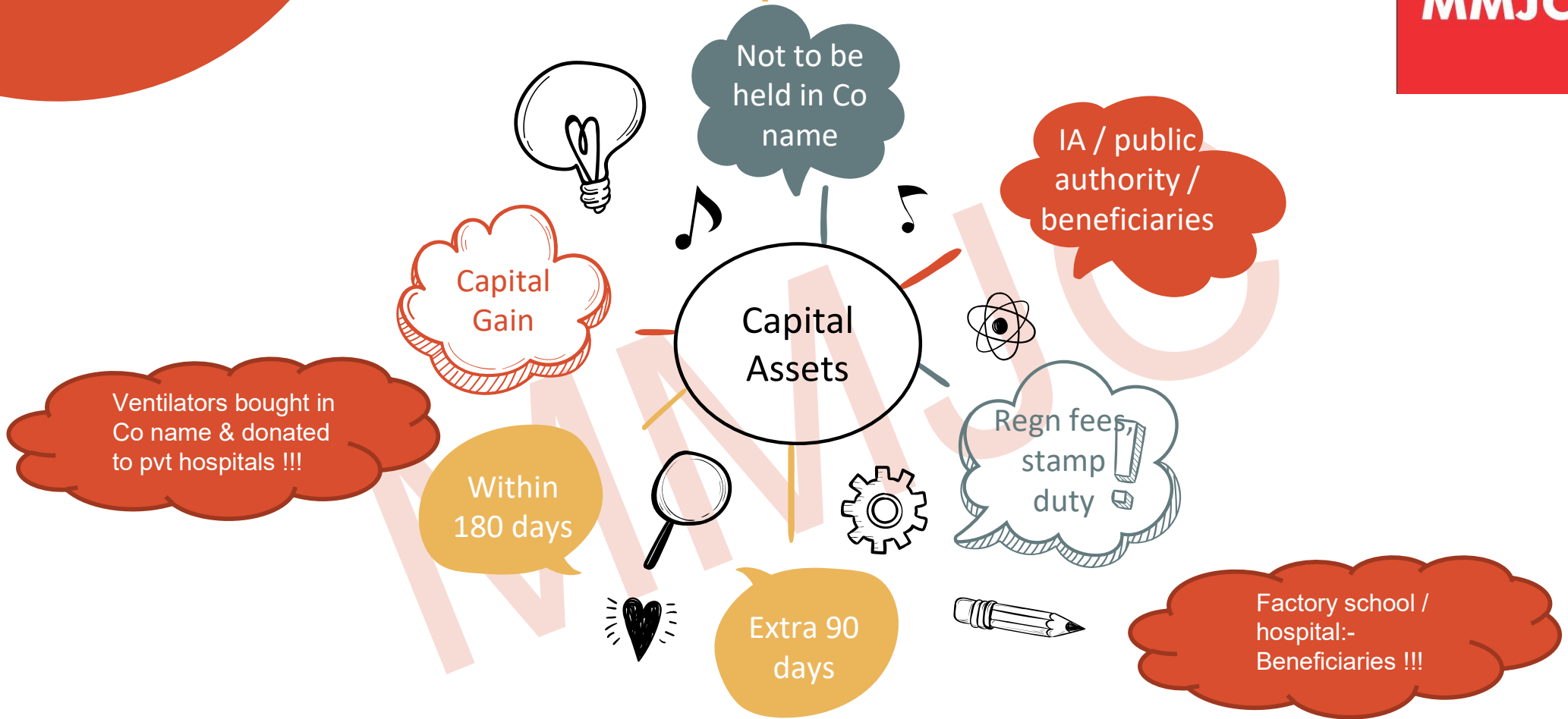


# Whether Disbursement = Spending?

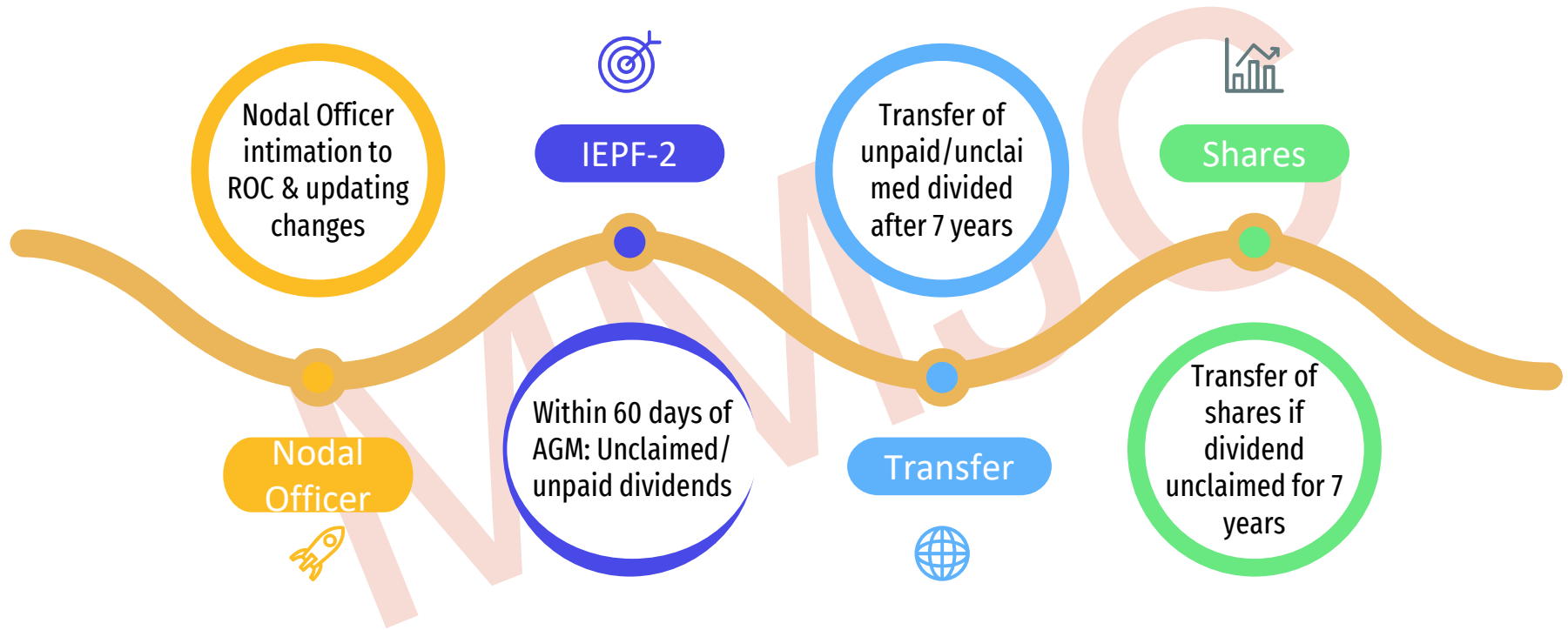
MMJC



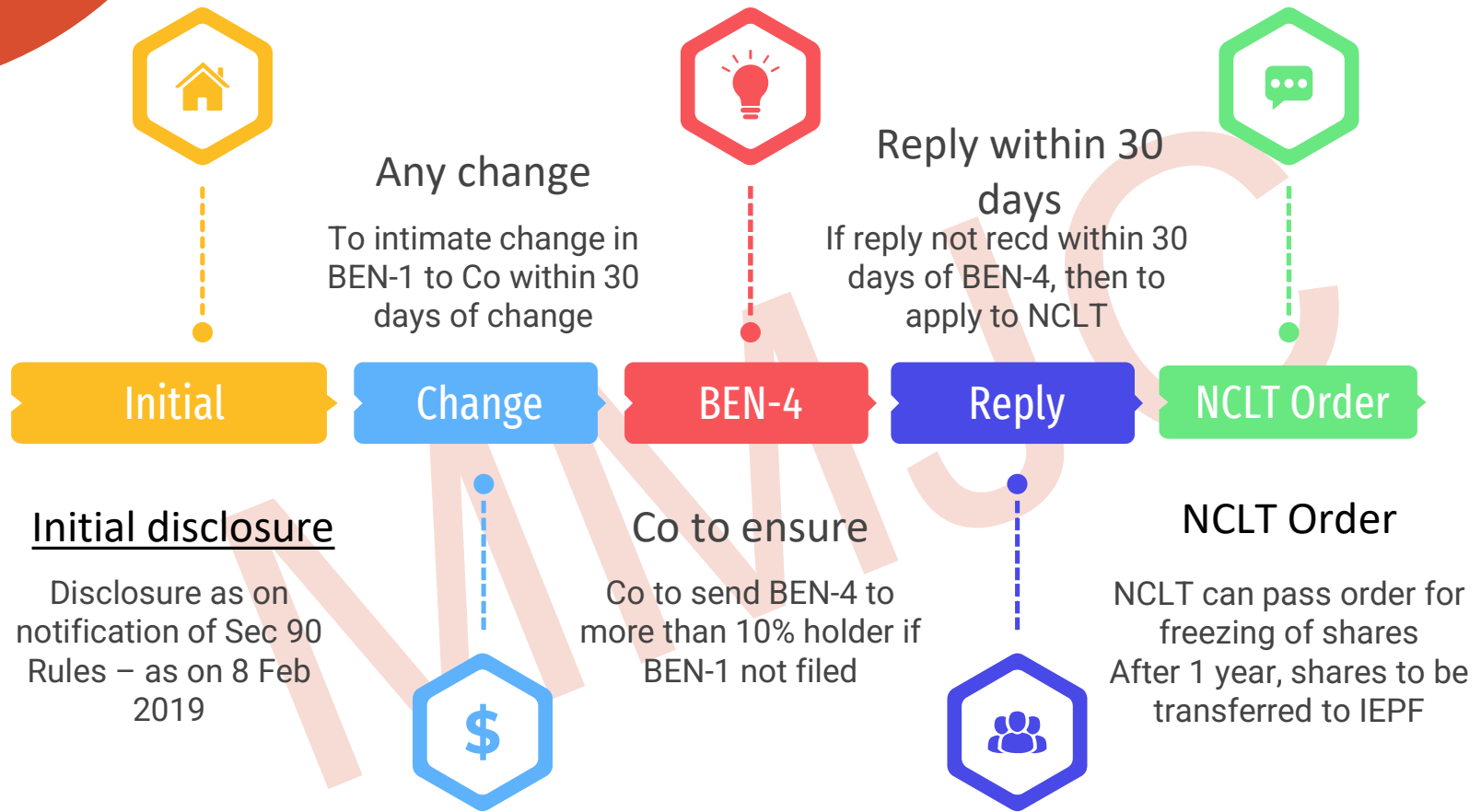
# Beneficiary of Assets



# IEPF Related compliance



# SBO related Compliance



# 04

## Compliance by Directors



***Compliance  
by Directors***

**Disclosure  
of interest**



**Ensuring  
annual KYC  
filing by 30  
Sept**



**Attending  
Board  
meetings**

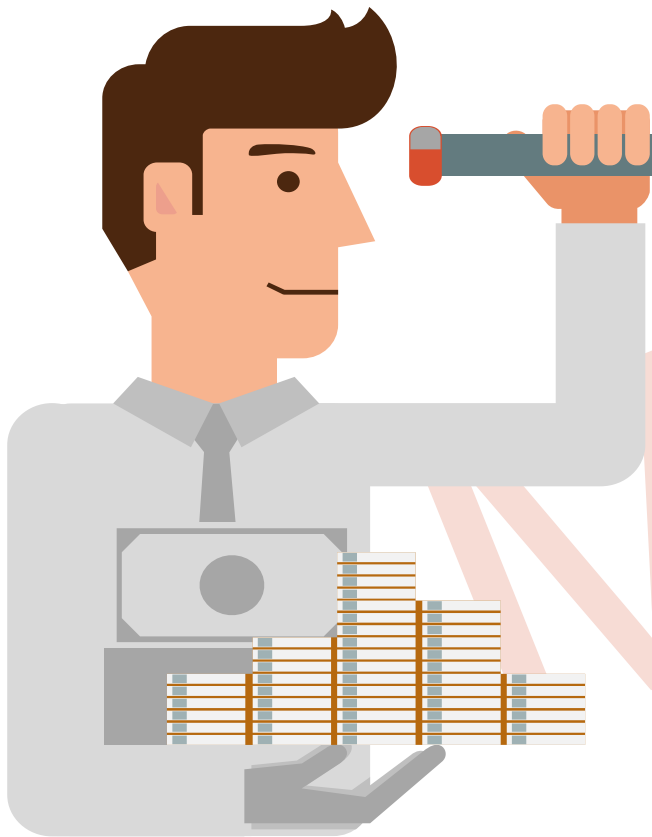


**Complying  
with duties –  
Sec 166**





# Importance of Disclosures



MBP-1: at the time of appt + every time there is change in interest (**within 30 days**)

Sec 184: **Direct or Indirect** Interest  
General & Specific disclosure

Consequences of non disclosure: Vacation of Office: Sec 167

# Duties of Directors

Directors to take care of interest of **stakeholders**

Se 166(2)

Regulate **conflict of interest**

Se 166(4)

## Duties of Directors

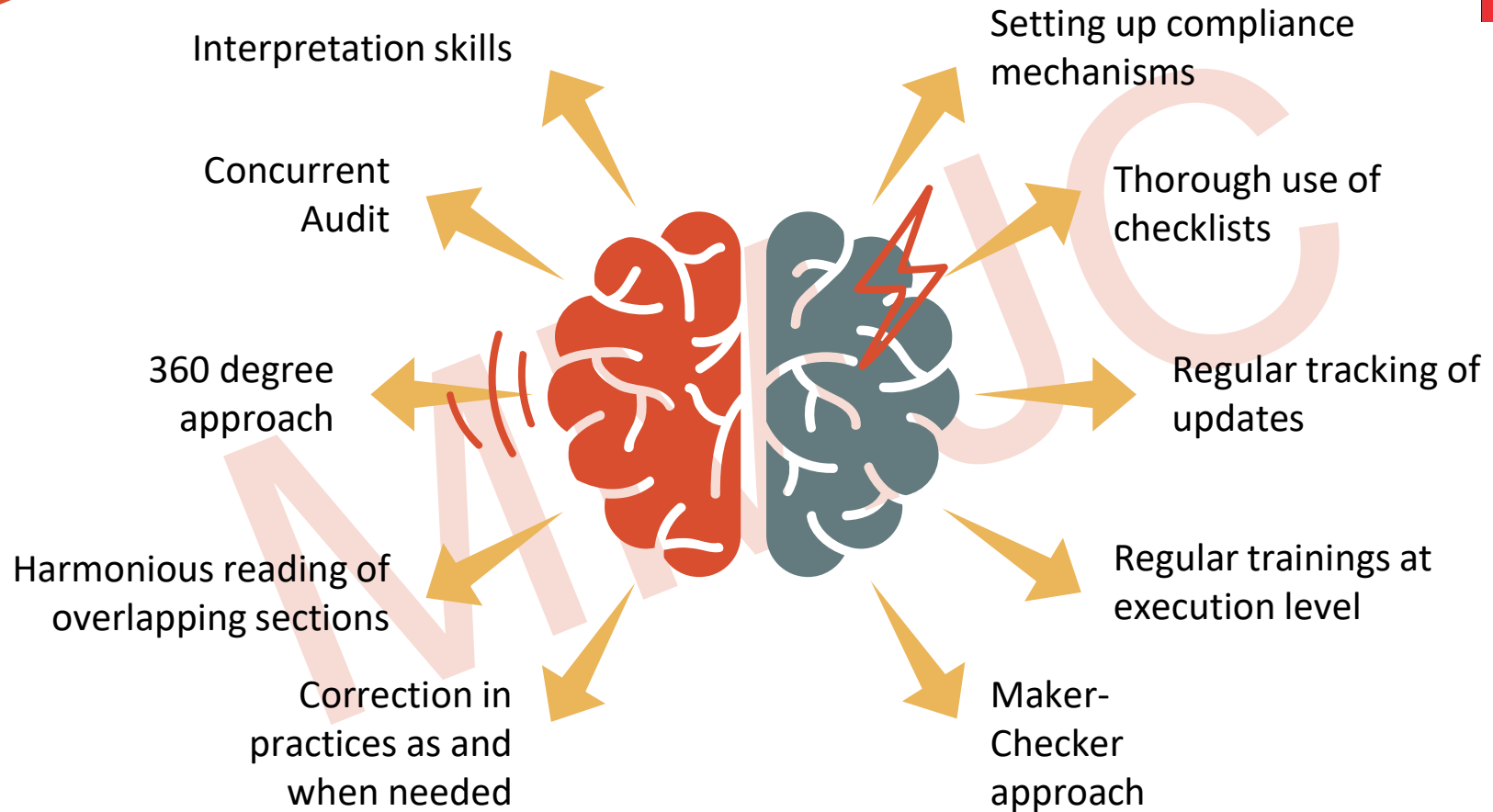
Se 166(5)

Compensate for extra-ordinary profits made from Co

Directors to do duties with **care, skill, diligence**

Se 166(3)

# How to ensure 100% compliance



Pleasure to  
respond  
to queries

---



**MMJC**



**Thank you for your  
patientful  
listening**